

Request for Letters of Interest from Colorado Attorneys Regarding Legal Representation of the Colorado General Assembly and Other Entities and Persons within the Colorado Legislative Department

1. Background Information

The Committee on Legal Services (Committee) is created in section 2-3-502, C.R.S., as a committee of the Colorado General Assembly. The Committee has several duties and powers, including, as provided in section 2-3-1001, C.R.S., to retain legal counsel to provide legal services and representation in legal actions and proceedings brought in connection with the performance of the powers, duties, and functions of the legislative department. The Committee may retain counsel to represent the General Assembly, the House of Representatives, the Senate, committees of the General Assembly or of either of the houses, individual legislators, and staff agencies of the legislative department and their employees. The staff agencies of the General Assembly consist of the staff of the House of Representatives, including partisan and nonpartisan staff; the staff of the Senate, including partisan and nonpartisan staff; the Joint Budget Committee Staff; the Legislative Council Staff; the State Auditor's Office; and the Office of Legislative Legal Services (OLLS).

In the last five years, the Committee has retained legal counsel for representation in 14 matters. In most cases, the Committee retained counsel to represent and advise individual legislators; in some cases the Committee retained counsel to represent the General Assembly or a committee of the General Assembly. The cases included ethics complaints before the Independent Ethics Commission, workplace harassment investigations, interrogatories from the General Assembly to the Colorado Supreme Court, issues arising from requests under the Colorado Open Records Act, federal First Amendment claims and §1983 actions arising from the use of social media, enforcement of constitutional legislative procedure requirements, and a case challenging the constitutionality of the TABOR amendment.

When the Committee retains counsel, the attorney-client relationship exists only between the retained counsel and the person who is represented or the persons who speak for the entity that is represented (e.g., in certain circumstances, the Executive Committee of the Legislative Council speaks for the General Assembly). The Committee is in the position of a third-party payor. As such, the retained counsel consults with and takes direction from the person or persons represented regarding the case and periodically reports to the Committee regarding the status of the case. The terms of any settlement are subject to approval by the person or persons represented; if the settlement is to be paid by the legislative department,

the amount of the settlement is subject to approval by the Committee or may be subject to approval by the Executive Committee depending on the funding source.

An attorney whom the Committee retains is paid an hourly rate plus costs and filing fees from appropriations made for this purpose. The current hourly rate is \$250 per hour. In most cases, an attorney who is retained by the Committee works with personnel in the OLLS in preparing pleadings, motions, and briefs.

2. Objective of Request for Letters of Interest.

When legal matters arise that involve the Colorado General Assembly, members of the Colorado General Assembly, or legislative committees, staff agencies, or employees, time is usually of the essence in selecting and retaining counsel. It is the intent of the Committee to identify and pre-approve a roster of attorneys who have demonstrated interest in representing the General Assembly and demonstrated the ability, experience, and professional capacity to do so. Based on the nature of the matter that arises, the staff of the OLLS will contact attorneys included on the roster to determine availability and interest and recommend attorneys that the Committee may consider retaining.

In determining whether to include an attorney on the roster that is considered for retention, the Committee will consider:

- Whether the attorney has at least ten years of litigation and appellate experience;
- Past experience in representing public entities and public employees at the trial and appellate levels and in dealing with issues that involve constitutional provisions that affect the legislative department, ethical requirements that apply to persons in the legislative department, statutory requirements such as open records and open meetings laws, and other issues that are likely to arise with regard to entities and persons within the legislative department;
- The professional and clerical support available to the attorney; and
- Any other factors that indicate the attorney's ability to effectively represent entities and persons within the legislative department.

3. Requirements for Letters of Interest

3.1. Submission Deadline and Instructions.

Interested attorneys should submit letters of interest no later than 5:00 p.m. on January 7, 2022, to:

Sharon Eubanks, Director
Office of Legislative Legal Services
sharon.eubanks@state.co.us

Submitting attorneys should include "Attorney Letter of Interest" in the subject line of the e-mail.

3.2. Required Information.

A letter of interest must include, at a minimum, the following information and must be accompanied by a resume:

- A statement explaining the attorney's interest in representing the Colorado General Assembly, its members and committees, and the employees of the legislative branch and the subject areas in which the attorney is interested and most qualified;
- A statement of the attorney's qualifications, including the attorney's educational background; clerking experience, if any; bar memberships; and the jurisdictions in which the attorney is licensed;
- The number of years in which the attorney has practiced law in Colorado and a description of the types of cases for which the attorney has been retained as counsel in the preceding five years, including the subject areas; whether the attorney's client was a public entity, official, or employee; the attorney's role in the cases; and the outcome of the cases;
- The number of cases in the preceding five years, if any, in which the attorney has filed briefs and presented arguments before the Colorado Court of Appeals, the Colorado Supreme Court, the Tenth Circuit Court of Appeals, and the United States Supreme Court; a short description of the issues argued on appeal in each case; and the outcome in each case; and
- A description of the firm that employs the attorney, including the number of attorneys, number of paralegals, and number of secretarial and administrative staff that the firm employs.

3.3. Inquiries.

Applicants may make e-mail inquiries concerning the Request for Letters of Interest to obtain clarification regarding any of the requirements or the process for retaining legal counsel to represent the legislative department. All inquiries must reference "Request for Letters of Interest" in the subject line and should be sent to Sharon Eubanks at the e-mail address listed in paragraph 3.1.

4. Process for Reviewing Letters of Intent.

The Director of the OLLS, the Deputy Directors, and the Revisor of Statutes will review the letters of intent received and will identify the candidates to recommend to the Committee for inclusion on the roster of attorneys. The Director and the Committee may choose to interview an identified candidate. The Committee shall select the attorneys to be included on the roster based on the considerations listed in paragraph 2. of this request for letters of interest. The OLLS will notify those attorneys who are selected for inclusion on the roster of attorneys.

The General Assembly is an equal opportunity employer. The OLLS and the Committee will give equal opportunity and consideration to all qualified attorneys who submit a letter of interest. In selecting attorneys for inclusion on the roster and for retention as legal counsel, the Committee will base their decisions on factors related to the representation of entities and persons in the legislative department and the specific circumstances surrounding the need to retain legal counsel.